

January 21, 1999

Mr. Helmut Talton
Associate General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Building
125 E. 11th Street
Austin, Texas 78701-2483



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OR99-0170

Dear Mr. Talton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121780.

The Texas Department of Transportation (the "department") received a request for all information pertaining to job posting number 8-47-E-787-623 for an Administrative Technician III. You claim that interview question number seven, the preferred answer, and applicants' answers to question seven are test items which are excepted from disclosure under section 552.122 of the Government Code. Furthermore, you assert that drivers' license numbers are excepted from public disclosure by section 552.130 of the Government Code. We assume that you have released the remaining requested information. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). After reviewing the submitted information, we conclude that question seven does not test an individual's or group's knowledge or ability in a particular area. Thus, you may not withhold question seven,

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

the preferred answer, or the applicants' responses to question seven under section 552.122(b). The questions and answers to question seven must be disclosed.

You have highlighted information in the Application for Employment that you contend is protected from disclosure by section 552.130. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

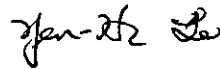
(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

We agree that you must withhold the highlighted information under section 552.130.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 121780

Enclosure: Submitted documents

cc: Ms. Brandie P. Davila
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(w/o enclosures)